

NATURAL RESOURCES CODE  
CHAPTER 153. PRESCRIBED BURNING  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 153.001. DEFINITION. In this chapter, "board" means the Prescribed Burning Board.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.002. LANDOWNER'S RIGHT TO CONDUCT BURNS NOT LIMITED. This chapter does not limit a landowner's right to conduct burns on the landowner's property.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.003. LIABILITY. This chapter does not modify a landowner's liability for property damage, personal injury, or death resulting from a burn that is not conducted as provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. PRESCRIBED BURNING BOARD

Sec. 153.041. ESTABLISHMENT. (a) The Prescribed Burning Board is established within the Department of Agriculture and is composed of:

(1) an employee of the Texas Forest Service designated by the director of the Texas Forest Service;

(2) an employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department;

(3) an employee of the Texas Natural Resource Conservation Commission appointed by the executive director of the Texas Natural Resource Conservation Commission;

(4) an employee of the Texas Agricultural Extension Service appointed by the executive director of the Texas Agricultural Extension Service;

(5) an employee of the Texas Agricultural Experiment Station appointed by the director of the Texas Agricultural Experiment Station;

(6) an employee of the Texas Tech University Range and Wildlife Department appointed by the dean of the Texas Tech University College of Agricultural Sciences and Natural Resources;

(7) an employee of the Department of Agriculture appointed by the commissioner of agriculture;

(8) an employee of the State Soil and Water Conservation Board appointed by the executive director of the State Soil and Water Conservation Board; and

(9) five persons who are:

(A) owners of agricultural land, as that term is defined by Section 153.081;

(B) self-employed or employed by a person other than a governmental entity; and

(C) appointed by the commissioner of agriculture.

(b) A member serves for a two-year term.

(c) The board shall, by majority vote, elect a presiding officer from the members of the board.

(d) Appointments to the board shall be made without regard to the race, creed, sex, disability, age, religion, or national origin of the appointees.

(e) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) for appointment to the board;

(2) does not maintain during the service on the board the qualifications required by Subsection (a) for appointment to the board;

(3) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(4) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(f) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.042. INFORMATION RELATING TO STANDARDS OF CONDUCT. The presiding officer of the board or the presiding officer's designee shall provide to members of the board, as often

as necessary, information regarding their qualification for office under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.043. MEMBER TRAINING. (a) A person appointed to the board is not eligible for membership on the board unless the person completes at least one training program that complies with this section.

(b) The training program must provide information to the member regarding:

- (1) this chapter;
- (2) the programs operated by the board;
- (3) the role and functions of the board;
- (4) the requirements of Chapters 551, 552, and 2001, Government Code;
- (5) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (6) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program as provided by the General Appropriations Act as if the person were a member of the board.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.044. SUNSET PROVISION. The Prescribed Burning Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2011.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 2.04, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1227, Sec. 3.05, eff. Sept. 1, 2005.

Sec. 153.045. ADVISORY BOARD. (a) The board shall establish an advisory board of members of the public, including individuals representing:

- (1) property owners;
- (2) agriculture, forestry, and livestock producers;
- (3) conservation interests;
- (4) environmental interests; and
- (5) insurance interests.

(b) The board shall determine the number of persons and manner of selection of the advisory board.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.046. DUTIES. The board shall:

- (1) establish standards for prescribed burning;
- (2) develop a comprehensive training curriculum for prescribed burn managers;
- (3) establish standards for certification, recertification, and training for prescribed burn managers;
- (4) establish minimum education and professional requirements for instructors for the approved curriculum; and
- (5) establish minimum insurance requirements for certified prescribed burn managers.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.047. PRESCRIBED BURNING STANDARDS. Minimum standards established by the board for prescribed burning must:

(1) ensure that prescribed burning is the controlled application of fire to naturally occurring or naturalized vegetative fuels under specified environmental conditions in accordance with a written prescription plan:

(A) designed to confine the fire to a predetermined area and to accomplish planned land management objectives; and

(B) that conforms to the standards established under this section;

(2) require that at least one certified prescribed burn manager is present on site during the conduct of the prescribed burn;

(3) establish appropriate guidelines for size of burning crews sufficient to:

(A) conduct the burn in accordance with the prescription plan; and

(B) provide adequate protection for the safety of persons and of adjacent property;

(4) include standards for notification to adjacent

land owners, the Texas Natural Resource Conservation Commission, and local fire authorities; and

(5) include minimum insurance requirements for certified prescribed burn managers.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.048. CERTIFICATION OF PRESCRIBED BURN MANAGERS. (a) Minimum standards established by the board for certification as a prescribed burn manager must require the completion of the approved training curriculum to be developed and promulgated by the board and taught by an approved instructor.

(b) The board shall certify a person as a prescribed burn manager if the person:

(1) applies to the board for certification;

(2) demonstrates completion of an approved training program by an approved instructor; and

(3) pays a fee to the board in an amount determined by the board.

(c) The certification is for five years.

(d) A person may renew certification only by completing a continuing education program established by the board.

(e) The board shall maintain a register of certified prescribed burn managers and dates of completion of initial and continuing training.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

#### SUBCHAPTER C. LIMITATIONS ON LIABILITY

Sec. 153.081. LIMITATION OF OWNER LIABILITY. (a) Subject to Section 153.082, an owner, lessee, or occupant of agricultural land is not liable for property damage or for injury or death to persons caused by or resulting from prescribed burning conducted on the land owned by, leased by, or occupied by the person if the prescribed burning is conducted under the supervision of a certified prescribed burn manager.

(b) This section does not apply to an owner, lessee, or occupant of agricultural land who is a certified prescribed burn manager and conducts a burn on that land.

(c) In this section, "agricultural land" means land that is located in this state and that is suitable for:

(1) use and production of plants and fruits for human or animal consumption or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed;

(2) forestry and the growing of trees for the purpose of rendering those trees into lumber, fiber, or other items used for industrial, commercial, or personal consumption;

(3) domestic or native farm or ranch animals kept for use or profit; or

(4) management of native or exotic wildlife.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Sec. 153.082. INSURANCE. The limitation on liability under Section 153.081 does not apply to an owner, lessee, or occupant of agricultural land unless the certified prescribed burn manager conducting a burn on the land has liability insurance coverage:

(1) of at least \$1 million for each single occurrence of bodily injury or death, or injury to or destruction of property; and

(2) with a policy period minimum aggregate limit of at least \$2 million.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 829, Sec. 1, eff. Sept. 1, 2001.